

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHER DIVISION

LAWRENCE BLEAU,

Plaintiff,

v.

Case No: 04-CV-73063-DT

HONORABLE DENISE PAGE HOOD

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER ACCEPTING REPORT AND RECOMMENDATIONS**

This matter is before the Court on Magistrate Judge Donald A. Scheer's Report and Recommendation filed May 13, 2005. To date, no Objections have been filed by Plaintiff.

Judicial review of the Commissioner's decision is limited in scope to determining whether the findings of fact made by the Commissioner are supported by substantial evidence, and deciding whether the Commissioner employed the proper legal criteria in reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge ("ALJ") must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court's review of an ALJ's decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1989). An administrative decision must be affirmed if supported by substantial evidence, even if the Court might arrive at a different conclusion. *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986) (quoting *Baker v. Heckler*,

730 F.2d 1147, 1140 (8th Cir. 1984)).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that the ALJ's finding that Plaintiff was impaired but nevertheless retained the residual functional capacity for a restricted range of sedentary work providing a sit-stand option is supported by substantial evidence on the record. The Court further agrees with the Magistrate Judge that the ALJ correctly took in consideration and incorporated Plaintiff's mental depression and physical limitations in areas of "climbing, stooping, kneeling, crouching and crawling" in evaluating Plaintiff's disability. The Court also agrees with the Magistrate Judge that the ALJ correctly found that while Plaintiff is unable to perform his old work there are a number of jobs in the economy and region that accommodate Plaintiff's restrictions.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Scheer filed May 13, 2005 (**Docket No. 18**) is ACCEPTED and ADOPTED as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (**Docket No. 11, filed January 21, 2005**) is DENIED.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (**Docket No. 17, filed April 12, 2005**) is GRANTED

IT IS FURTHER ORDERED that this matter is DISMISSED with prejudice.

s/ DENISE PAGE HOOD

DENISE PAGE HOOD

United States District Judge

DATED: June 30, 2005